

**Application No.: 10/560,951**  
**Filing Date: October 6, 2006**

## **REMARKS**

The specification is amended herein to correct an error in translation of the Japanese-language PCT application. Support for the amendment is found in the PCT application as originally filed. Accordingly, no new matter is added by the amendment to the specification.

Claims 1, 12, 27, 32, 34 and 35 are amended herein. Support for the amendment to Claims 1, 12, 27 and 32 is found in original Claim 7, and throughout the specification. Support for the amendment to Claim 34 is found in the specification, for example, at page 8, lines 10-13. Support for the amendment to Claim 35 is found in the specification, for example, at page 8, line 25, through page 9, line 3. Accordingly, the amendments to the claims do not add new matter.

Claim 7 is canceled herein without prejudice to, or disclaimer of, the subject matter contained therein. Applicants maintain that the cancellation of a claim makes no admission as to its patentability and reserve the right to pursue the subject matter of the canceled claim in this or any other patent application.

Upon entry of the new claims, Claims 1, 3-5, 8, 10, 12, 27-30 and 32-35 are pending.

### **Objection to Drawings in Exhibit 1**

The Office Action objects to the drawings submitted in Applicants' previous response, labeled "Exhibit 1" because they were unaccompanied by a Declaration and because the image quality of the figures was low. Applicants will further address the issue addressed in the figures of Exhibit 1 in a Supplemental response filed during the Suspension period for this application.

### **Rejection of Claims 34 and 35 under 35 U.S.C. §112, second paragraph**

Claims 34 and 35 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to specify units.

Claims 34 and 35 are amended herein to specify units. In view of the amendment to the claims, Applicants respectfully request removal of this ground of rejection.

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**Rejection of Claims 1, 3-5, 10, 12, 27-30 and 32-35 under 35 U.S.C. §103 and Rejection of Claims 7 and 8 under 35 U.S.C. §103**

Claims 1, 3-5, 10, 12, 27-30 and 32-35 are rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741) and Toyozumi (JP 2002-338770).

Claims 7 and 8 are rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741), Toyozumi (JP 2002-338770) and Matsui (JP 2002-248721).

Claims 1, 12, 27 and 32 are amended to incorporate the elements of now-canceled Claim 7. Accordingly, the rejections as applied to Claims 1, 3-5, 10, 12, 27-30 and 32-35 and Claims 7 and 8 will be addressed herein.

Claims 1, 12, 27 and 32 presently recite, *inter alia*, that the at least one polyamide layer comprises a phenol-based antioxidant.

Applicants respectfully submit that the claims are non-obvious over the cited references because the presently claimed invention provides results that are unexpected over any combination of the teachings of the references.

The Office Action states that Matsui teaches a layered film containing a polyamide layer suitable for packing material subject to retort treatment, and further it discloses the addition of a phenolic antioxidant to the polyamide. The Office Action concludes that, it would have been obvious for one of ordinary skill in the art to add the phenolic antioxidant to the laminated polyamide layer obtained from Kuriu, Yamamoto and Toyozumi.

However, even if the phenolic antioxidant is added to the laminated polyamide layer obtained from Kuriu, Yamamoto and Toyozumi, the person of ordinary skill in the art would not have expected the superior properties of the presently claimed invention.

None of Kuriu, Yamamoto and Toyozumi teaches the benefits of incorporating antioxidants. Kuriu teaches an antioxidant as an optional additive, but does not teach any added benefit or any reason for incorporating the antioxidant. *See* Kuriu at column 2, lines 35-39. Only Matsui teaches the use of an antioxidant to lessen the effect strength reduction of the film after air retort treatment. *See* Matsui, at paragraphs [0019], [0058] and [0061]. However, Matsui is

silent regarding the haze reduction that results by incorporating the recited phenolic antioxidant into a polyamide film.

In contrast, Applicants have found that the presently claimed invention has a remarkable effect of raising haze retention after the retort treatment. That is, the Applicants have found that by adding the phenolic antioxidant to the polyamide layer, the haze of the polyamide-based multilayer film remains low even after retort treatment. See specification at Example 1 and Table 5 in contrast to Comparative Example 4 and Table 6. For example, in Comparative Example 4, no phenolic antioxidant is added, and the haze retention after the retort treatment is 80%. That is, when retort treatment was applied to the film lacking a phenolic antioxidant, the haze of the film increased relative to the haze prior to the retort treatment. In contrast, Example 1 teaches that when retort treatment was applied to the film containing a phenolic antioxidant, the low level of haze present prior to retort treatment was retained.

This surprising and beneficial effect is not taught by any of the references. As discussed above, none of Kuriu, Yamamoto and Toyozumi teaches a benefit of incorporating antioxidants. Furthermore, Matsui does not teach the improved effect that Applicants have discovered. As discussed above, Matsui teaches the use of an antioxidant to lessen the effect strength reduction of the film after air retort treatment. However, there is no evidence that the superior haze suppression effects of Applicants' invention would be expected in view of the teachings of Matsui. In particular, there is no evidence that decrease in impact strength reduction would naturally be accompanied by haze suppression. If anything, Tables 5 and 6 in the present specification provide evidence that these two effects are not mutually related. Accordingly the decreased impact strength reduction taught by Matsui would not lead one of ordinary skill to expect the superior haze suppression effects resultant from the presently claimed invention.

Therefore, even if the person skilled in the art tries to add the phenolic antioxidant to the polyamide layer obtained from Kuriu, Yamamoto and Toyozumi according to the teachings of Matsui, the only predictable result would be decreased impact strength reduction upon retort. The haze suppression effect of the presently claimed invention would not have been predicted from the teachings of Matsui, alone or in combination with the remainder of the cited references.

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Consequently, the presently claimed invention possesses superior properties that are unexpected over the teachings of the cited references. Accordingly, the presently claimed invention is non-obvious over the cited references.

In response to Applicants' previous arguments regarding the teachings of Example 1 and Comparative Example 4, the Office Action states that Example 1 and Comparative Example 4 cannot be compared because their compositions of resin are different. The apparent difference in the compositions of the resin was a result of the mistranslation of Comparative Example 4. In the original specification, the compositions of Example 1 and Comparative Example 4 are identical, other than existence or nonexistence of antioxidant. Accordingly, Example 1 and Comparative Example 4 can be compared so that the remarkable haze suppression effect afforded by the inclusion of a phenolic antioxidant is readily apparent.

In view of the above, Applicants respectfully request removal of this ground for rejection of the claims.

**Rejection of Claim 3 under 35 U.S.C. §103**

Claim 3 is rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741), Toyozumi (JP 2002-338770) and Tokoh (U.S. Pat. No. 5,428,094).

Claim 3 is non-obvious for at least the reasons provided above. In particular, Claim 3 depends from Claim 1, and Kuriu, Yamamoto and Toyozumi cannot be combined to render Claim 1 obvious. Tokoh does not teach the improved haze reduction properties resultant from the incorporation of a phenolic antioxidant into a polyamide-based multilayer film. As such Tokoh does not teach that which is lacking in the combination of Kuriu, Yamamoto and Toyozumi. Accordingly, no combination of the cited references can render Claim 3 obvious. In view of the above, Applicants respectfully request reconsideration and removal of the above obviousness rejection of Claim 3.

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**Rejection of Claim 32 under 35 U.S.C. §103**

Claim 32 is rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741), Toyozumi (JP 2002-338770) and Tanaka (JP 2002-172742).

Claim 32 is non-obvious for at least the reasons provided above. In particular, Kuriu, Yamamoto and Toyozumi cannot be combined to render Claim 32 obvious. Tanaka does not teach the improved haze reduction properties resultant from the incorporation of a phenolic antioxidant into a polyamide-based multilayer film. As such Tanaka does not teach that which is lacking in the combination of Kuriu, Yamamoto and Toyozumi. Accordingly, no combination of the cited references can render Claim 32 obvious. In view of the above, Applicants respectfully request reconsideration and removal of the above obviousness rejection of Claim 32.

**Rejection of Claim 27 under 35 U.S.C. §103**

Claim 27 is rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741), Toyozumi (JP 2002-338770) and Shibuya (JP 06-345919).

Claim 27 is non-obvious for at least the reasons provided above. In particular, Kuriu, Yamamoto and Toyozumi cannot be combined to render Claim 27 obvious. Shibuya does not teach the improved haze reduction properties resultant from the incorporation of a phenolic antioxidant into a polyamide-based multilayer film. As such Shibuya does not teach that which is lacking in the combination of Kuriu, Yamamoto and Toyozumi. Accordingly, no combination of the cited references can render Claim 27 obvious. In view of the above, Applicants respectfully request reconsideration and removal of the above obviousness rejection of Claim 27.

**Rejection of Claims 1, 3-5, 10, 12, 27-30 and 32-35 under 35 U.S.C. §103 and Rejection of Claims 7 and 8 under 35 U.S.C. §103**

Claims 1, 3-5, 10, 12, 27-30 and 32-35 are rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741) and Sugiura (JP 10151714).

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Claims 7 and 8 are rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741), Sugiura (JP 10151714) and Matsui (JP 2002-248721).

Claims 1, 3-5, 7, 8, 10, 12, 27-30 and 32-35 are non-obvious for at least the reasons provided above. In particular, Kuriu and Yamamoto cannot be combined to render Claims 1, 12, 27 or 32 obvious. Sugiura does not teach the improved haze reduction properties resultant from the incorporation of a phenolic antioxidant into a polyamide-based multilayer film. As such Sugiura does not teach that which is lacking in the combination of Kuriu and Yamamoto. Accordingly, no combination of the cited references can render obvious Claims 1, 12, 27, or 32, or claims dependent therefrom. In view of the above, Applicants respectfully request reconsideration and removal of the above obviousness rejection of Claims 1, 3-5, 7, 8, 10, 12, 27-30 and 32-35.

#### **Rejection of Claim 3 under 35 U.S.C. §103**

Claim 3 is rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741), Sugiura (JP 10151714) and Tokoh (U.S. Pat. No. 5,428,094).

Claim 3 is non-obvious for at least the reasons provided above. In particular, Claim 3 depends from Claim 1, and Kuriu, Yamamoto and Sugiura cannot be combined to render Claim 1 obvious. Tokoh does not teach the improved haze reduction properties resultant from the incorporation of a phenolic antioxidant into a polyamide-based multilayer film. As such Tokoh does not teach that which is lacking in the combination of Kuriu, Yamamoto and Sugiura. Accordingly, no combination of the cited references can render Claim 3 obvious. In view of the above, Applicants respectfully request reconsideration and removal of the above obviousness rejection of Claim 3.

#### **Rejection of Claim 32 under 35 U.S.C. §103**

Claim 32 is rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741), Sugiura (JP 10151714) and Tanaka (JP 2002-172742).

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Claim 32 is non-obvious for at least the reasons provided above. In particular, Kuriu, Yamamoto and Sugiura cannot be combined to render Claim 32 obvious. Tanaka does not teach the improved haze reduction properties resultant from the incorporation of a phenolic antioxidant into a polyamide-based multilayer film. As such Tanaka does not teach that which is lacking in the combination of Kuriu, Yamamoto and Sugiura. Accordingly, no combination of the cited references can render Claim 32 obvious. In view of the above, Applicants respectfully request reconsideration and removal of the above obviousness rejection of Claim 32.

**Rejection of Claim 27 under 35 U.S.C. §103**

Claim 27 is rejected under 35 U.S.C. §103 as being obvious over Kuriu (WO 00/56548) in view of Yamamoto (JP 11-199741), Sugiura (JP 10151714) and Shibuya (JP 06-345919).

Claim 27 is non-obvious for at least the reasons provided above. In particular, Kuriu, Yamamoto and Sugiura cannot be combined to render Claim 27 obvious. Shibuya does not teach the improved haze reduction properties resultant from the incorporation of a phenolic antioxidant into a polyamide-based multilayer film. As such Shibuya does not teach that which is lacking in the combination of Kuriu, Yamamoto and Sugiura. Accordingly, no combination of the cited references can render Claim 27 obvious. In view of the above, Applicants respectfully request reconsideration and removal of the above obviousness rejection of Claim 27.

**No Disclaimers or Disavowals**

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

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### **CONCLUSION**

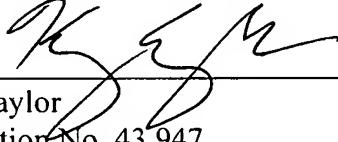
In view of the above, Applicants respectfully maintain that claims are patentable and request that they be passed to issue. Applicants invite the Examiner to call the undersigned if any remaining issues might be resolved by telephone.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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